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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,787	03/24/2004	Billy W. McElheney	5090-0001	4257

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EXAMINER	
WILKENS, JANET MARIE	

ART UNIT	PAPER NUMBER
3637	

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/807,787	MCELHENEY, BILLY W.	
	Examiner	Art Unit	
	Janet M. Wilkens	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *3/24/2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Specification

The disclosure is objected to because of the following informalities: the first sentence, which contains the continuing data, needs to be updated to include the patent number of the parent case. Appropriate correction is required.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 14 and 111. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 14 is objected to because of the following informalities: it contains two periods and a "hanging"/misplaced phrase, i.e. "includes two strap segments affixed to said partition.". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-5, 7, 8 and 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claims 3 and 7, it is unclear whether or not the partition is to be claimed in combination with the retaining apparatus. In claim 1, the partition is not positively claimed, i.e. appears in an intended use/"for" statement; however, in claims 3 and 7, the partition is positively claimed, i.e. is affixed to the support pad of the retaining apparatus. For claims 4, 5 and 8, it is unclear whether or not the monitor is to be claimed in combination with the retaining apparatus. In claim 1, the monitor is not positively claimed, i.e. appears in an intended use/"for" statement; however, in claims 4, 5 and 8, the monitor is positively claimed, i.e. the monitor is supported on the support pads. For claims 11 and 20, it is unclear whether or not the partition, monitor and environments are to be claimed in combination with the OIT. In the preamble of each claim, only the OIT is positively being claimed i.e. the partition, monitor and environments appear in an intended use/"for" statement; however, in the body of each claim, the partition, monitor and environments are positively claimed. For claim 16, "the retaining strap" lacks antecedent basis.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-20 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,755,491 in view of Sullivan, III and Charapich. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the patent and the instant application teach an OIT comprising a front panel, a control computer, a partition and a means for mounting the front panel on the partition and sealing the panel around the perimeter edge. On the partition is an aperture, an interface device and a means for connecting the device to the computer through the aperture in the partition. The patent fails to claim adjustable strap means for retaining the computer against the partition and support pads affixed between the computer and partition. First, Sullivan teaches an adjustable strap means for retaining a computer with respect to a planar surface (Figs. 1 and 15A). It would have been obvious to add an adjustable strap around the computer,

such as is taught by Sullivan, help secure the computer into position. Second, Charapich teaches removably mounted and positioned pads (70) between a partition and computer. It would have been obvious to place pads, such as is taught by Charapich, anywhere around the computer (either on the computer itself or on the partition), including at the bottom thereof, to help protect that portion of the computer, to provide a seal between the computer and partition, and to help maintain the positioning of the computer with respect to the partition.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Holden. Holden teaches a retaining apparatus (Fig. 1) comprising: first and second support pads (23) and a retaining mechanism (17). Also disclosed is a flat panel monitor (11) and a partition (13). Please note: limitations found in intended use/"for" statements have been given no weight in the claims.

Claims 1-4 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Charapich. Charapich teaches a retaining apparatus (Fig. 1) comprising: first and second bottom removably mounted and positioned support pads (70) and a retaining mechanism (52). Also disclosed is a monitor (60) and a partition (1). Please note:

limitations found in intended use/"for" statements have been given no weight in the claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernart et al in view of Sullivan, III and Charapich. Bernart teaches a station (Fig. 1) comprising a front panel (26), a control computer (28), a partition (112) and a means for mounting the front panel on the partition and sealing the panel around the perimeter edge (see Fig. 4). On the partition is an aperture (126), an interface device (keyboard mouse) and a means (wiring of the keyboard and mouse) for connecting the device to the computer through the aperture in the partition (see Fig. 1). Bernart fails to teach adjustable strap means for retaining the computer against the partition and support pads affixed between the computer and partition. First, Sullivan teaches an adjustable strap means for retaining a computer with respect to a planar surface (Figs. 1 and 15A). It would have been obvious to add an adjustable strap around the computer of Bernart, such as is taught by Sullivan, help secure the computer into position. Second, Charapich teaches removably mounted and positioned pads (70) between a partition and computer. It would have been obvious to place pads, such as is taught by

Charapich, anywhere around the computer of Bernart (either on the computer itself or on the partition), including at the bottom thereof, to help protect that portion of the computer, to provide a seal between the computer and partition, and to help maintain the positioning of the computer with respect to the partition.

For claim 5, Bernart in view of Sullivan and Charapich fails to teach that the monitor is a flat panel monitor. As shown by Sullivan, monitors and flat panel monitors are interchangeable in similar work station situations. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the station of Bernart by using an alternate computer monitor therein, i.e. using a flat panel monitor instead of the monitor presently used, since these monitor are functional equivalents and it appears that either monitor would work equally well in the work station of Bernart.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 12, 2006
Wilkens

JANET M. WILKENS
PRIMARY EXAMINER
A.U. 3637

Replacement Drawing Sheet

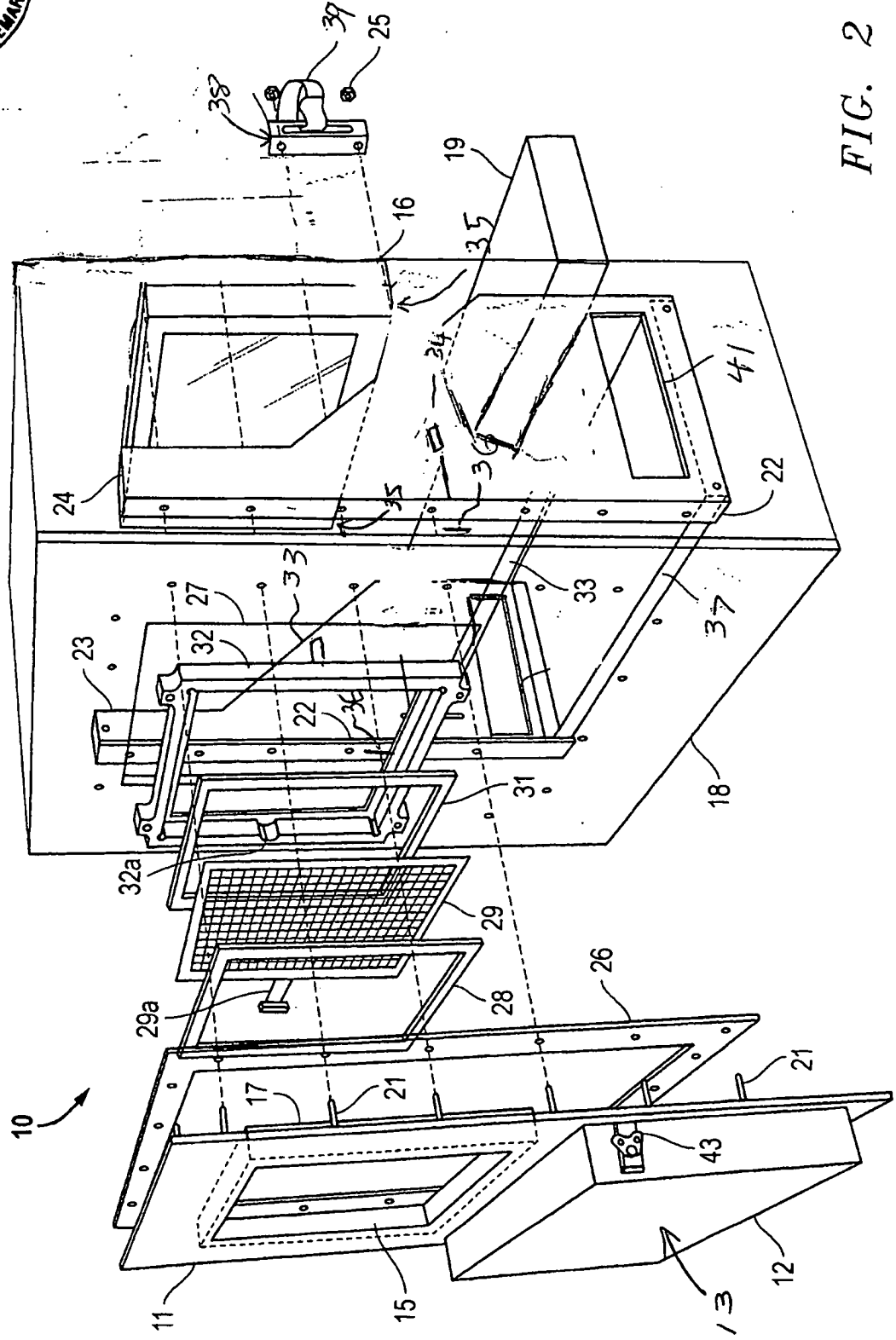

FIG. 2